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Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo

Addendum

Mission to Seychelles* **

Summary

In the present report, the Special Rapporteur highlights the efforts of the Government in combating trafficking in children, including through the ratification of international and regional instruments and the adoption of a multisectoral approach to combating trafficking in persons. The Special Rapporteur expresses concerns with regard to, inter alia, the absence of legal and policy frameworks as well as of targeted policies and institutions to prevent and combat trafficking in persons. She also notes the lack of comprehensive support for victims of trafficking, such as the unavailability of shelters, psychosocial support and appropriate holding facilities for irregular migrants, as well as fast-track deportation procedures which do not allow for identification of victims of trafficking and traffickers. There is also an apparent lack of capacity regarding all stakeholders, including front-line officials, law enforcement agents and civil society organizations, as well as a lack of awareness on the part of the general population with regard to the issue of trafficking. As a result, the potential scale of the problem of trafficking in persons, its trends and scope appear to be somewhat underestimated and unknown in the absence of statistical information on trafficking in persons. She makes recommendations to the Government, including on addressing gaps in the anti-trafficking legislative, policy and institutional frameworks; improving the justice system; putting in place a comprehensive data collection system on trafficked

* Late submission.

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persons; increasing capacity-building activities for stakeholders involved in addressing trafficking issues; and addressing the root causes of trafficking, including through international, regional and bilateral agreements.

Annex

[English only]

Report of the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, on her mission to Seychelles (27–31 January 2014)

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I. Introduction

1. From 27 to 31 January 2014, the Special Rapporteur on trafficking in persons, especially women and children, Joy Ngozi Ezeilo, conducted an official visit to Seychelles at the invitation of the Government.

2. During her visit to Mahe, the Special Rapporteur met with government official, including the Minister for Labour and Human Resource Development; the Minister of Community Development, Social Affairs and Sports; the Minister for Tourism and Culture; the Minister for Health and the Minister for Home Affairs and Transport. She also held meetings with the Principal Secretaries of the Ministry of Foreign Affairs, the Department of Social Affairs and the Immigration and Civil Status Department; members of the National Assembly; the Ambassador for Women and Children; the Chief Justice of the Supreme Court; the Attorney General and the Commissioner of Police. She further engaged with the Chairperson of the National Human Rights Commission and members of the National Committee on Trafficking in Persons. She also interacted with members of civil society organizations and the media. In addition, she visited the President's Village Children's Home, a temporary guesthouse for irregular migrants, the migrant holding area at the Central Police Station and the Indian Ocean Tuna factory. Finally, she exchanged views with representatives of the United Nations Agencies as well as the British and Indian High Commissioners for Seychelles. The Special Rapporteur regrets that she could not meet with any victims of trafficking as none were identified either by the Government or civil society organizations.

3. The objectives of the visit were to explore the incidence, trends and root causes of trafficking in persons, especially women and children, in Seychelles and to examine the initiatives and measures taken by the Government and civil society to combat and prevent this phenomenon, in the light of existing international law.

4. The Special Rapporteur expresses her sincere appreciation to the Government, and in particular the Ministry of Foreign Affairs, for the indispensable support it provided in planning and coordinating the visit. She thanks James Alix Michel, President of the Republic of Seychelles, for engaging in person with her on this issue, which she sees as a strong demonstration of his political will to address the phenomenon of trafficking in persons and ensure that it does not take root in the country. She further thanks the civil society organizations and the United Nations (in particular, the United Nations Development Programme (UNDP); the World Health Organisation (WHO); the United Nations Office on Drugs and Crime (UNODC) – Southern Africa; the International Organization for Migration (IOM) – Mauritius Office; the Office of the High Commissioner for Human Rights (OHCHR) – Regional Office for Southern Africa; as well as the Regional Anti-Piracy Prosecutions Intelligence Coordination Center (RAPPICC) for their assistance and support before, during and after the mission.

II. Main findings

A. Forms and manifestations of trafficking in persons

5. As a result of its geographical location, tourism attractions, the relatively small size of its population and its middle income economic development, Seychelles has a large population of both tourists and migrant workers. In 2012, the estimated number of tourists

was 208,000, almost three times the size of its population,[1] while foreign migrant workers constituted about 20 per cent of its population.

6. The phenomenon of trafficking in persons in Seychelles is at best insidious and remains hidden as a result of lack of awareness. Notwithstanding, the Special Rapporteur noted considerable anecdotal evidence suggesting that trafficking in persons occurs in Seychelles. Available information indicates that the country may increasingly become a destination for trafficking for sexual exploitation, especially of women from Eastern Europe. Furthermore, allegations of cases of sexual exploitation of Seychellois girls by both their boyfriends/pimps and families emerged. Cases of mixed migration and trafficking for the purpose of labour exploitation reportedly involving migrant workers in the construction and fishery sectors from Bangladesh, China, India, Kenya, Madagascar, Sri Lanka and the Philippines were also identified. Moreover, a growing use of migrant domestic workers, with possible indications of links to domestic servitude, especially from Madagascar, Mauritius, Nepal, Philippines and Sri Lanka, emerged as an issue during the visit. There were also reports of possible trafficking into fishing vessels following the case of nine Pakistanis found abandoned in a port in Victoria and assisted by a local civil society organization.

7. Root causes of trafficking include poverty and lack of economic opportunities in source countries. The high demand for unskilled labour in the construction and fishery sectors based in Seychelles, as well as demand for cheap domestic work from middle/high-income households in Seychelles, also fuel trafficking in persons. It should be noted that Seychellois nationals are reluctant to take up low-paying work, leaving the aforementioned sectors in need of a foreign workforce. Moreover, the flourishing tourism industry and the demand for commercial sexual services by nationals, tourists and the large population of male migrant workers are some of the underlying factors contributing to trafficking in women and children for sexual exploitation. The growing prevalence of drug and substance dependence also fuel Seychellois children's vulnerability to in-country sex trafficking.

8. In the almost complete absence of accurate data on trafficking in persons from both the State and civil society organizations, the Special Rapporteur found it difficult to assess the exact scope and magnitude of trafficking in persons, especially women and children. The lack of legal and institutional protection frameworks for victims of trafficking reinforces the invisibility of the problem and thus the extent, trends and manifestations thereof are unknown.

1. Trafficking of girls and women for sexual exploitation and prostitution

9. Information received during the visit suggests that Seychelles may increasingly become a destination country for foreign women subjected to sex trafficking. Women from Eastern Europe, particularly Ukraine, are reportedly recruited to Seychelles with promises of modelling jobs and subsequently subjected to high-class forced prostitution in private homes and hotels. The Special Rapporteur also learned that, upon their arrival at the airport as tourists, these women are reportedly escorted as very important persons (VIPs), directly bypassing immigration control. A 2011 government study also identified a group of Russian prostitutes based in Dubai who operate in Seychelles, especially when American navy ships arrive in Victoria port.[2] There are risks that these women may have been trafficked to Seychelles for the purpose of commercial sexual exploitation.

[1] National Bureau of Statistics, "Seychelles in figures" (Victoria, Mahe, 2013).

[2] Department of Social Affairs, "Prostitution in Seychelles: An Assessment of the Situation", (Victoria, Mahe, 2011), p. 31.

10. Available information also point toward to internal trafficking of Seychellois children for sexual purposes. According to official sources, cases of forced prostitution of Seychellois girls, including minors, by their boyfriends/pimps who control their earnings are not uncommon.[3] Drug and substance dependency of both the girls and their pimps are identified as the leading cause of such types of sexual exploitation.

11. Further information indicates the possible forced high-class prostitution of Seychellois girls and, according to some sources, boys – particularly on the main island of Mahe – by foreign clients. Foreign clients were identified as male or female visitors/tourists or locally employed foreign men; while girls aged 16 and onwards are most at risk, girls as young as 14 years of age were reportedly forcibly prostituted.[4] Moreover, a considerable number of mothers push their own children, both female and male, into forced prostitution in order to financially sustain the family.[5]

12. The prevalence of substance abuse, poverty, and the continuing demand for commercial sexual services by nationals, tourists and migrant workers are some of the underlying factors that contribute to the sexual exploitation of trafficked women and children in Seychelles.

2. Trafficking for labour exploitation

13. Seychelles has a large population of migrant workers, a large portion of whom are unskilled and semi-skilled. According to official statistics, the vast majority of the migrant workers, who constitute about one fifth of the population of the country, are employed in the manufacturing (mainly fishery) and construction sectors, comprising nearly one third of the total workforce.[6] The Special Rapporteur notes with concern that a significant portion of migrants work within the Seychelles International Trade Zone (SITZ) where the national Labour Law – the Employment Act 1995, which protects workers' rights – is inapplicable. However, the International Trade Zone (Employment) Regulations 1997 and the International Trade Zone (Conditions of Employment) Order 1997, are applicable and, as posited by the Government, do not make the workers any more vulnerable to situations of forced labour than workers who work outside of the SITZ. The Special Rapporteur was informed of several cases of unskilled and semi-skilled migrant workers, especially from Bangladesh, China and India, reportedly facing exploitation, including poor working conditions, underpayment and late payment of wages, substandard housing and withholding of passports – possible indicators of forced labour. Over the past two years, a number of public demonstrations held by groups of migrant workers to peacefully protest about their working conditions have resulted in their deportation. There were also allegations of two suicides of migrant workers, which were attributed to work-related frustrations. The Special Rapporteur noted that the Employment and other related acts apply to both Seychellois and foreigners. In this regard she also welcomes the increase in wage as of January 2014 to all workers, including migrants. However, cumbersome procedures and penalties for going on strike,[7] which include prosecution, payment of a fine ranging from Sr 5,000 to Sr 10,000 and deportation, dissuade migrant workers from exercising their rights to strike.

14. In addition, the Special Rapporteur received information from non-governmental sources that fishermen on board Asian fishing boats in Seychelles territorial waters or ports have reportedly been subjected to abuse, including, but not limited to, denial of payment,

[3] Ibid. p. 45.
[4] Ibid., pp. 31 and 8.
[5] Ibid., p. 8, and pp. 42–43.
[6] See footnote 1.
[7] Industrial Relations Act 17 of 1994, sects. 52 to 58.

physical abuse and being left abandoned in ports. A case in point involves nine Pakistani fishermen allegedly abandoned in a port in Victoria for nine months. According to information provided, the fishermen had not received wages for an entire year's work on board the Asian fishing vessel.

3. Domestic servitude

15. From January to August 2013, the Immigration Division issued Gainful Occupational Permits to 40 foreign domestic workers in Seychelles employed as carers, live-in nannies and housemaids, inter alia.[8] Of these, 80 per cent were female. While not all domestic workers are victims of trafficking, the Special Rapporteur received information indicating possible trafficking for the purpose of domestic servitude. Increasing evidence suggests that young women from Madagascar, Mauritius, Nepal, Philippines and Sri Lanka, most of whom are single mothers from rural areas and with limited education, are brought into Seychelles and deceived into working long hours, with little or no pay and with restricted freedom of movement. A case in point involves a Mauritian victim of domestic servitude identified by a health worker who realized that her passport had been withheld by her employer and that she had not received payment for her work.

B. Legal, policy and institutional frameworks for combating trafficking in persons

1. Legal framework

16. At the international level, Seychelles has been a party to the United Nations Convention against Transnational Organized Crime since 2004 and to the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing it (Palermo Protocol) since 2010. Moreover, it has ratified all of the core human rights instruments, a number of which have particular relevance to combating trafficking, including the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Rights of the Child, including its Optional Protocol on the sale of children, child prostitution and child pornography; and the International Convention on the Protection of the Rights of All Migrant Workers and Members of their Families. Seychelles has yet to ratify International Labour Organization Convention No. 189 (2011) concerning decent work for domestic workers.

17. At the regional level, Seychelles is a party to the African Charter on Human and Peoples' Rights, its Protocol on the Rights of Women in Africa, the African Charter on the Rights and Welfare of the Child and the Southern African Development Community Gender and Development Protocol.

18. At the national level, Seychelles does not yet have specific legislation dealing with trafficking in persons. The Government had identified this shortcoming, and at the time of the visit of the Special Rapporteur had plans to draft an anti-trafficking Act. In the meantime, some relevant legislation may be invoked to prosecute offences that could amount to trafficking in persons and other forms of exploitation.

19. Chapter XV of the Penal Code on Offences against Morality defines and punishes sexual assault with 20 years' imprisonment (sect. 130). Abduction of women for the purpose of sexual act and sexual interference with a child below the age of 15 carry terms

[8] Ministry of Labour and Human Resource Development, Statistics for trafficking in persons delegation (January 2014), table 3.1.

of 7 and 20 years' imprisonment respectively.[9] The procurement or attempt to procure women under the age of 21 years for forced prostitution in Seychelles or outside the country, and the detention of a woman or a girl for forced prostitution are prohibited.[10] Soliciting in public places; keeping or renting premises for use as a brothel; and living off the earning of prostitution are offences punishable with 2 to 5 years imprisonment.[11] Moreover, foreign prostitutes or any person who lives on the earnings of prostitution or has procured another person for immoral purposes are systematically categorized as prohibited immigrants liable to expulsion.[12] However, there is no exemption in this or any other law to protect potential victims of trafficking who may have been forced into prostitution from being deported, possibly back into the hands of their traffickers, for practising prostitution.

20. The Constitution provides for freedom from slavery.[13] Penalties for offences against liberty provided for in the Penal Code cover kidnapping and abduction with intent to confine a person; or in order to subject a person to slavery; and kidnapping of a child under the age of 14 years, which carry penalties of 7, 14 and 10 years' imprisonment respectively.[14] The buying or disposing of any person as a slave carries a 10-year imprisonment while the habitual dealing in slaves is punished with 14 years' imprisonment.[15]

21. In addition, forced or obligatory labour is prohibited in the Constitution.[16] It is also prohibited in the Penal Code, which prescribes three years' imprisonment for unlawful compulsory labour (sect. 251). Minimum labour protection standards, including working hours, paid leave and regular payment of wages are set out in the Employment Act, which governs the relationship between workers and their employers. With regard to migrant workers, the Employment Act 1995 extends its scope to non-Seychellois workers and contains provisions that prohibit labour exploitation.[17] However, as previously noted, this national labour law is limited in its application and migrant workers in the International Trade Zone are excluded from its jurisdiction. Notwithstanding, the International Trade Zone (Employment) Regulations, 1997 and the International Trade Zone (Conditions of Employment) Order, 1997, regulate the process of recruitment of workers and their conditions of service, including for Non-Seychellois workers within the Seychelles International Trade Zone.[18]

22. With regard to children, the Constitution, under section 31, sets the minimum age for work at 15 and stipulates a higher minimum age for dangerous, harmful, and unhealthy occupations. Furthermore, it ensures "special protection against social and economic exploitation as well as physical and moral dangers to which children and young persons are exposed to." The Conditions of Employment Regulations, 1991, prohibit children under the age of 18 from night employment and from employment in the restaurant, tourism or entertainment industries. Exceptionally, children aged 15 to 17 may work in these industries and at night with the written approval of a competent officer. Exploitative acts often committed in the process of trafficking, such as using or employing a child in a way that may be physically or mentally harmful to the child or affect the child's growth or

[9] Penal Code, sects. 133 and 135.
[10] Penal Code, sects. 138 and 141.
[11] Penal Code, sects. 154, 155 and 156.
[12] Immigration Act of 1995, sects. 19 and 20.
[13] Constitution, sect. 17 (1) and (2).
[14] Penal Code, sects. 244, 245 and 247.
[15] Penal Code, sects. 249 and 250.
[16] Constitution, sects. 17 (1) and (2).
[17] Employment Act 1995, sect. 67.
[18] See regulation 41 of the International Trade Zone (Employment) Regulations, 1997.

development are prohibited under the Children Act (1998). The Act specifically contains provisions preventing children from being taken out of Seychelles for immoral purposes as defined in section XV of the Penal code.[19]

23. Other legislation that could contribute to combatting trafficking in persons include the Protection of Human Rights Act, 2009, which promotes witness protection; the Proceeds of Crime Act, 2008 (civil confiscation), which applies to confiscation of property acquired from criminal conduct; and the Evidence Act, 2009, which allows hearings in camera to protect child victims of sexual violence. However, a big gap is the lack of witness, victim and whistle-blower protection in the criminal justice system as a whole. The Special Rapporteur notes the need for the draft anti-trafficking legislation to extend such protection to witnesses, whistle-blowers and victims of trafficking before, during and after trial to protect them from reprisal attacks, stigmatization and embarrassment.

24. The Special Rapporteur is concerned at the absence of an adequate legal framework to prevent and combat trafficking in persons in conformity with the Palermo Protocol, especially within the definition of article 3. Consequently, trafficking in persons is not a specific offence, which makes it difficult to prosecute, particularly in cases of cross-border trafficking, and punish traffickers. She recalls that articles 5 and 2 of the Palermo Protocol require ratifying States Parties to take legislative steps to criminalize trafficking; protect the human rights of victims and to prevent and combat trafficking in persons. Moreover, by focusing exclusively on some aspects related to trafficking for sexual and labour exploitations, the existing legislation excludes other forms of exploitation including trafficking for the purpose of domestic servitude and removal of organs.

2. Policy framework

25. At the time of the visit, the Special Rapporteur was informed that Seychelles was working towards the establishment of a national strategic framework and action plan to combat trafficking in persons (2014–2015). Under this national plan, the country envisages the revision of its legal framework on trafficking; the prosecution of perpetrators and improvement of access to justice for all trafficked persons; and the improvement of access to protection and assistance mechanisms in line with international standards in cooperation with relevant national stakeholders. It further plans to build the capacity of all stakeholders for the effective prevention and prosecution of cases of trafficking in persons and protection of victims; the raising of awareness/sensitization of the population at large on trafficking in persons; and the strengthening of international cooperation with regard to investigation and prosecution of the crime of trafficking in persons.[20]

26. The Special Rapporteur notes with appreciation the involvement of relevant government offices, civil society organizations and the United Nations in the preliminary stages of drafting, through consultative meetings held around the draft action plan.

3. Institutional framework

27. At the time of the Special Rapporteur's visit, Seychelles had an interministerial committee on trafficking with a specific mandate to oversee the development and drafting of legislation on trafficking in persons, a national action plan, and capacity-building activities for stakeholders. The committee was established in 2012 by the Cabinet of Ministers for a two-year term and is co-chaired by the Ministry of Foreign Affairs and the Ministry of Social Affairs, and includes representatives from Immigration, Customs, the

[19] Children Act of 1998, sect. 27.

[20] Draft national anti-trafficking action plan, p. 8.

Police, Employment Department, the Ministry of Social Affairs, Community Development and Sports, Health, the Attorney General's Office, the Financial Intelligence Unit, the National Bureau of Statistics, the Judiciary, National Commissions/Councils, the Seychelles National Youth Council, the Media Commission, the National Human Rights Commission, the Public Officers' Ethics Commission, the Drug and Alcohol Council and civil society organizations.

28. The Special Rapporteur appreciates the Government's efforts in adopting a multisectoral approach to address the phenomenon of trafficking in persons as well as the support provided by partners such as UNODC and IOM; however she notes the evident lack of human and financial capacities, thus hindering the committee in achieving the desired impact in the two years of its existence. She was also pleased to learn that the appointment of a new committee on trafficking is envisaged in the draft anti-trafficking bill. The broader mandate of this mechanism is expected to include provisions for guiding the Government on strategies and policies to tackle human trafficking, putting in place effective legislation, awareness-raising and capacity-building for stakeholders.

29. While not directly working on anti-trafficking issues, the Department of Social Affairs under the Ministry of Social Affairs, Community Development and Sports aims, inter alia, to restore social functioning and alleviate social problems by safeguarding the interest and promoting the well-being of children as well as integrating and protecting marginalized and vulnerable groups. It consists of three sections: (a) Legal Services and Child Protection; (b) Community Social Work; and (c) Probation Services.[21] The Child Protection Unit coordinates and, in collaboration with the Family Squad of the Seychelles Police and other partners, investigates, all child abuse cases, including those involving sexual, physical, and emotional abuse. It also provides counselling services for abused children and their families.[22] Social workers from the Community Social Work Section deal with cases of domestic violence, substance abuse, mental health, placement, anti-social behaviour, teenage pregnancy and neglect. Cases are identified through their regular visits to schools, health centres and police stations as well as the Department's 24-hour children's helpline.[23] The majority of victims are identified by clients who walk in at headquarters or at the district administration offices where the social workers are based. However, the Special Rapporteur was informed that no cases of trafficking in persons have ever been identified.

30. The Labour Relations Division within the Ministry of Labour and Human Resource Development promotes and maintains industrial peace and stability by providing a legal framework to balance the interests of employers and workers.[24] It investigates claims and complaints relating to salary matters, unfair termination, redundancy and other terms and conditions of employment in respect of all workers other than domestic workers, military personnel, and civil servants. The Labour Monitoring and Compliance Section conducts labour inspections. The Special Rapporteur was informed that, in the 1,136 labour inspections conducted in 2012, no case of labour exploitation was uncovered in any sector. The Employment Services Bureau under the Ministry monitors the activities of licensed employment agencies, which are themselves regulated by law.[25]

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[21] Convention on the Elimination of All Forms of Discrimination against Women, Seychelles combined initial, second, third, fourth and fifth periodic reports, 12 October 2011 (CEDAW/C/SYC/1-5), para. 132.

[22] Ibid., para. 135.

[23] Ibid., para. 140.

[24] ILO, national profile on occupational safety and health, Seychelles (2013), pp. 9–10.

[25] Employment Act (1995), sects. 5 to 18.

31. Moreover, within the Seychelles Police, the Family Squad investigates crimes related to child abuse; the Special Tourism Team investigates suspicious transactions and anti-social behaviours involving tourists and residents on the beach and the INTERPOL National Central Bureau assists local police forces in investigations requiring international outreach. The newly established Financial Intelligence and Assets Recovery Unit identifies and investigates suspected assets which derive from criminal conduct.[26]

32. The National Human Rights Commission was established on January 2009 with a mandate to ensure better protection and promotion of human rights in Seychelles.[27] The Commission is entitled to, inter alia, inquire into human rights complaints, visit places of detention and recommend action to alleviate the factors that inhibit the enjoyment of human rights.[28] While the Commission could potentially play an instrumental role in addressing trafficking issues, including through reviewing complaints, conducting research and engaging in awareness-raising campaigns, the Special Rapporteur is concerned that the limited human capacity and the low budget allotted to this institution would have a negative impact on its independence and activities.

33. Challenges in the Seychelles strategy to combat trafficking in persons include the absence of a specific structure with adequate human and financial capacities, as well as defined responsibilities to address the phenomenon in a coordinated manner. This impacts the provision of effective remedies to victims of trafficking.

C. Identification of trafficked persons

34. To date, no victim of trafficking has been officially identified in Seychelles in spite of reported cases of possible trafficking in persons, primarily linked with migrant workers, and the fact that tourism remains one of the country's main industries. The Government asserts that this reflects the low level of trafficking into Seychelles, citing its small size, remote location and the absence of any shared land borders as dissuasive factors. However, information received indicate that foreign women and girls identified as prohibited immigrants are reportedly detained and summarily deported directly from the airport by immigration officials on suspicion of prostitution. In most cases, there is no identification process or proper assessment as to whether they were trafficked or whether their return would be safe. It is further alleged that the police are not informed about such cases until after the potential victims have left the country. Such lack of coordination in the process of identification of potential victims between immigration and police officials is a further cause of concern.

35. The Special Rapporteur acknowledges the efforts of labour inspectors, particularly regarding migrant workers in the construction and fishing sectors. These include conducting unannounced inspections, distribution of leaflets on labour-related complaint procedures in various languages, including Chinese and Indian, as well as access for victims to the Ministry either in person or via the telephone number of the Labour Department, which serves as a de facto hotline during working hours. In addition, the living conditions of foreign workers are inspected by health inspectors from the Department of Health. Notwithstanding, feedback from some onsite visits conducted by the Special Rapporteur suggests that the leaflets may not have been widely distributed, as some of the

[26] See www.police.gov.sc/index.php?option=com_content&view=article&id=405&Itemid=170; see further www.interpol.int/Member-countries/Africa/Seychelles and Anti-money laundering (amendment) Act 18 of 2008, art. 6.

[27] Protection of Human Rights Act.

[28] Protection of Human Rights Act, sub-sect. 6 (i), (iii), and (iv).

migrant workers seemed ignorant of such labour complaints procedures and the receipt of information leaflets on the subject.

36. While no case of trafficking in persons has been officially identified, the Special Rapporteur learned about a number of complaints made, especially in the construction industry, about working and living conditions, including non-payment of salaries and retention of passports indicative of the exploitation of foreign migrant workers and possible trafficking in person. In addition, the Special Rapporteur points out that the low literacy level of some migrant workers may prevent them from reading the information provided in the leaflets, even when provided in their own language.

37. Additionally, in spite of the increasing number of foreigners engaged in domestic work, and allegations of abuse, victims of trafficking for domestic servitude have not been identified because of the hidden nature of their work; and the fact that labour inspections are not conducted in private homes. At the very least, the Special Rapporteur encourages the Immigration Division to use the yearly renewal of Gainful Occupational Permits to inquire about the working conditions of this category of workers.

38. Identification of victims is further exacerbated by the lack of a clear legal distinction between prostitution and internal trafficking for sexual purposes. In this regard, social workers at the Department of Social Affairs referred to cases whereby some Seychellois men force their girlfriends into prostitution in order to earn money for the couple's drug addiction. The Department also identified 580 cases of sexual abuse committed on children from 2009 to 2013. Unfortunately, neither these nor other similar cases have been correctly identified as trafficking in persons for the purpose of sexual exploitation. Moreover, the Special Rapporteur was informed that access to sexual health care for children under the age of 18 could only be accessed with an accompanying adult, in spite of the age for sexual consent being 15 years. This decreases the chance of identification by health-care professionals of children who may be potential victims of trafficking for sexual exploitation.

39. In view of this, the Special Rapporteur observes that the absence of identified victims may not be indicative of the true extent of the problem of trafficking in the country. For a variety of reasons, including apparent lack of capacity of frontline officers, appropriate legislation, infrastructure and services designed to facilitate the identification of victims of trafficking in persons, victims of trafficking remain unidentified or are identified as irregular immigrants and deported without further identification.

D. Protection of trafficked persons

40. Once identified as such, trafficked persons should be provided with appropriate care and assistance so that they are protected from further exploitation and harm. Regrettably, the Special Rapporteur found no infrastructure and services available to victims of trafficking in Seychelles.

1. Non-criminalization of trafficked persons

41. The trafficking cycle cannot be broken without attention to the rights of trafficked persons in a non-discriminatory manner. In this regard, the domestic legal framework does not provide victims of trafficking with specific protection from further harm or assistance to them in achieving full recovery. Nor does it confer victims of trafficking with a special status that would exempt them from prosecution for offences relating to irregular entry and stay in the Seychelles, engaging in prostitution or in employment without a work permit. Moreover, the summary/expedited deportation procedure of irregular immigrants, some of whom may potentially be victims of trafficking without access to protection, recovery or

reintegration services, might perpetuate their victimization. The lack of holding facilities for irregular migrants, who are currently and inappropriately kept in police cells or private guesthouses with no protection is also a cause for concern.

2. Shelters

42. At the time of the Special Rapporteur's visit, there were no shelters or psychosocial support specifically intended for victims of trafficking. However, the Social Affairs department acts as the regulator and guardian of all children placed in these homes, which provide welfare assistance to children in need up to 18 years who are subject to protection measures, and children in difficult situations, and assist their reintegration into society. It also runs a children's telephone hotline for victims of violence.[29] Three other homes for children for orphans and children in need are run by faith-based organizations. Another is under the patronage of the First Lady.

43. The Special Rapporteur visited the President's Village Children's Home, regulated by the Social Development Affairs, which had 54 children up to the age of 18 years, including infants. The centre provides a family environment for orphans and children whose parents are faced with socioeconomic difficulties. This includes educational and vocational support, medical and psychosocial services for children. The Special Rapporteur notes the overall adequate standard of the facility and services provided.

44. However, the Special Rapporteur is concerned that trafficked persons are falling through the protection gap in the absence of shelters specifically designed to accommodate and provide protection to them. The existing shelters are inadequate to accommodate trafficked persons, some of whom may be foreigners, whose circumstances and needs are different from other victims of violence or children at risk of violence. Moreover, the absence of protection services dissuades trafficking victims from seeking help and exposes them to traffickers, who can act with impunity in the knowledge that their victims have no legal recourse or effective remedies.

E. Investigation, prosecution and punishment

45. Preliminary investigation of offences against morality under the Penal Code is undertaken by members of the police, who transmit their findings to the Attorney General, who prosecutes all criminal cases in court. Moreover, the Special Rapporteur acknowledges that some safeguards have been put in place in the legal framework to protect vulnerable witnesses which include in-camera hearings for children and victims of sexual exploitation.[30] She notes the need for the draft anti-trafficking legislation to extend such protection to victims of trafficking before, during and after trial to save them from reprisal, attacks, stigmatization and embarrassment.

46. A number of factors hamper the effective and swift investigation of trafficking cases by the police. While there is no specific legislation on trafficking in persons, the Police Commissioner conceded that police officials often lack a comprehensive understanding of existing penal laws which could be used to deal with cases of trafficking in persons.

47. A corollary of the absence of such investigation of trafficking cases is the lack of prosecution of traffickers. It is hoped that, with the adoption of the draft anti-trafficking legislation, authorities will step up efforts to investigate and prosecute traffickers.

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[29] See www.socialdevelopment.gov.sc.

[30] Evidence Act 2009, sect. 11.

F. Redress for victims of trafficking

48. According to international law and standards, States have to provide victims of trafficking with access to effective remedies.[31] While there is no comprehensive national framework for victims' compensation in Seychelles, the Special Rapporteur notes the possibility that victims of trafficking may access compensation through separate civil court proceedings provided for in the Civil Code. They may also benefit from the Proceeds of Crime (Civil Confiscation) Act, 2008, which provides for confiscation of assets and proceeds obtained through criminal conduct. Another important means of redress, specifically for victims of labour trafficking, is the recovery of unpaid wages. While not specifically intended for victims of trafficking, the Employment Act provides for such recovery of wages.

49. While the Special Rapporteur acknowledges the necessity of compensation as an important component of effective remedies for trafficked persons, she also notes the importance of other components of effective remedies, including restitution, recovery/rehabilitation, satisfaction and guarantee of non-repetition, as well as access to information, legal assistance, and regularization of residency status,[32] which are currently not available for victims of trafficking in Seychelles.

50. In certain circumstances, permanent or temporary residence in itself may be a necessary and appropriate form of remedy. This consideration is particularly pertinent in cases where irregular immigrants, who may also include trafficked persons, are immediately returned to their country of origin and thus put at serious risk of being re-trafficked to Seychelles or of severe violations of their human rights. Where such risks exist, the Special Rapporteur is of the view that trafficked persons should be provided with the opportunity to remain in Seychelles on a temporary or permanent basis, as well as with appropriate support to be effectively integrated into Seychelles society.

G. Repatriation and reintegration

51. Repatriation of victims of trafficking in persons is provided for in the Palermo Protocol.[33] At the time of the Special Rapporteur's visit, Seychelles did not have a repatriation and reintegration mechanism for identified victims of trafficking. The practice of summary deportation of irregular migrants, who might potentially include victims of trafficking, may contribute to their revictimization.

52. She was however informed that the draft national anti-trafficking plan of action provides for voluntary, safe and dignified return options for all victims of trafficking. In this regard, she hopes that the draft plan will go further and spell out procedural safeguards for the victims, such as the Government's obligations to provide for a recovery and reflection period, and alternatives to repatriation to their countries of origin, and the carrying out of risk assessments to ensure that their repatriation will not jeopardize their safety and security. Reintegration procedures for potential Seychellois victims of trafficking in persons upon their return from abroad should also be incorporated in the plan of action.

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[31] Palermo Protocol, art. 6, para. 6, and OHCHR Recommended Principles and Guidelines on Human Rights and Human Trafficking, guideline 9.

[32] A/HRC/17/35.

[33] Palermo Protocol, art. 8.

H. Prevention

53. Trafficking in persons is a relatively new phenomenon in Seychelles. The Special Rapporteur acknowledges the Government's attempts at awareness-raising activities particularly targeting the interministerial committee. While these activities are useful, they remain at an embryonic stage and are not systematic. Moreover, they are not specifically tailored to reach out to those most at risk of trafficking, including the migrant population, which should be provided with accurate information.

54. Public awareness of trafficking in persons through the mass media is widely recognized as a key prevention strategy for raising awareness about trafficking, appropriately targeting trafficked persons, those at risk of being trafficked or otherwise exploited, their employers or workplaces. While the local media's sporadic articles have somewhat contributed to raising attention to the issue, accurate reporting on trafficking in persons remains a challenge.

55. In addition, the potential of key institutions such as the Ministries of Tourism Employment, Social Affairs and Health; law enforcement authorities, the National Human Rights Commission and civil society organizations to contribute to raising awareness about and proactively taking measures to discourage trafficking in persons does not seem to be fully exploited, as these institutions themselves remain in need of capacity-building on the issue of trafficking and the human rights dimension, including the gendered nature of human trafficking.

56. The Special Rapporteur further underscores the importance of addressing demand as a root cause in prevention strategies, which, in the context of Seychelles, includes demand for commercial sex services, drug and substance abuse, and poverty. With regard to the emerging demand for exploitative labour of foreign migrants, including domestic workers, the Special Rapporteur stresses that the protection of labour rights is essential in reducing demand for exploitative labour and in preventing exploitation from occurring in the first place. There is also a critical need to raise the awareness of employers and potential employers about the labour rights of domestic workers under international human rights law and standards.

I. Cooperation and partnership

1. Cooperation with civil society

57. The Special Rapporteur is encouraged by the existing institutionalized cooperation between the Government and civil society organizations through a memorandum of understanding aimed at, inter alia, maintaining an effective communications network, reducing duplication and maximizing the use of limited resources in areas such as health, community development and support for vulnerable groups.[34] Civil society organizations have taken part in the discussion and validation process of the draft national anti-trafficking plan of action. However, she notes the apparent lack of expertise on trafficking in persons as well as adequate human and financial resources in civil society organizations to address the issue. She further echoes the strong need expressed by civil society organizations for technical cooperation and assistance on capacity-building on trafficking in persons.

[34] Memorandum of understanding between the Government of Seychelles and Non-Governmental Organisations (NGOs) in Seychelles (available from: http://www.civilsociety.sc/wp-content/uploads/2013/03/MoU1.pdf), pp. 1 and 3.

2. International, regional and bilateral cooperation

58. The transnational nature of trafficking requires the participation of source, transit and destination countries in anti-trafficking work, including in the area of identification of victims, exchange of information, joint investigations and judicial cooperation. While promoting cooperation in order to address trafficking in persons is not reflected in the domestic legislation, it has been part of the political statements of the Government. At the time of the visit of the Special Rapporteur, Seychelles had no international, regional or bilateral agreements with source countries. Factors that contribute to absence of such agreements include lack of awareness of the issues related to trafficking in persons on the part of both consular officers and victims themselves; and the fact that not all source countries have representations based in Seychelles, as the Special Rapporteur learned.

59. Nevertheless, Seychelles has benefited from some technical and financial bilateral or multilateral assistance in addressing the issue of trafficking. Assistance provided includes the development of a national plan of action, reviewing existing laws, facilitation of workshops and sensitization on trafficking in persons undertaken with the support of IOM and UNODC. While not directly involved with trafficking in persons, Seychelles also cooperates with the Regional Anti-Piracy Prosecutions Intelligence Coordination Center (RAPPIC), a joint investigative body created by virtue of article 19 of the United Nations Convention on Transnational Organized Crime, for the purposes of tackling and prosecuting organized crime threats such as maritime piracy. In this regard, Seychelles has collaborated with Kenya, Tanzania, and Mauritius as well as with the Federal Bureau of Investigation (FBI) and the Naval Criminal Investigation Service (NCIS), INTERPOL, Europol, UNODC, the Indian Ocean Commission, and a wide range of European police forces.[35]

III. Conclusions and recommendations

A. Conclusions

60. **Seychelles has expressed its commitment and resolve to combat trafficking in persons, as reflected by the country's ratification of the United Nations Convention against Transnational Organized Crime, and the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (Palermo Protocol) as well as through the ratification of other major international and regional human rights instruments and the issuance of a standing invitation to special procedures mandate holders. The political commitment to end human trafficking clearly exists in Seychelles, as reflected in the establishment of the National Anti-Trafficking Committee. Legislative changes and policy measures to combat trafficking in persons are also envisaged by the Government through the drafting of an anti-trafficking bill and a national plan of action to combat trafficking.**

61. **The Special Rapporteur nonetheless remains concerned at the absence of legal and policy frameworks to prevent and combat trafficking in persons. Consequently, human trafficking is not an offence which makes it difficult to prosecute and punish traffickers. Moreover, despite existing penalties for offences against liberty and morality, there is no evidence that these have been used to identify victims of**

[35] http://oceansbeyondpiracy.org/matrix/regional-anti-piracy-prosecutions-intelligence-coordination-centre-rappicc.

trafficking nor that anyone has been convicted for acts relating to trafficking in persons.

62. There is also a lack of targeted policies and institutions to deal with trafficking in persons, appropriate procedures for the identification of victims of trafficking and mechanisms for data collection. Such a situation makes it impossible to conduct proper investigation and prosecution of trafficking cases.

63. Moreover, victims of trafficking are not provided with comprehensive support. The absence of shelters and psycho-social supports for victims of gender-based violence, including trafficking, perpetuates their victimization. There are no holding facilities for irregular migrants, who are currently and inappropriately kept in police cells. The speed with which prohibited migrants are deported may not allow for thorough investigations and possible identification of trafficked persons and traffickers. Labour inspections are limited by resources to effectively overseeing businesses.

64. While there have been sporadic attempts at awareness-raising for members of the Inter-Ministerial Committee, efforts to prevent and combat human trafficking remain at an embryonic stage and are not systematic. The general population, civil society and institutions for the protection of human rights remain mostly unaware and uninformed of the issue of trafficking and its human rights implications.

65. As a result, the potential scale of the problem of trafficking in persons, its trends and scope appears to be somewhat underestimated and unknown in the absence of statistical information on trafficking in persons.

B. Recommendations

66. In view of the above observations, and in a spirit of cooperation and dialogue, the Special Rapporteur offers the following recommendations.

67. With regard to the legal and policy frameworks, Seychelles should:

(a) Ensure full implementation of the Palermo Protocol, which requires Seychelles to take effective and comprehensive measures to prevent and combat trafficking in persons and accelerate the process of developing and adopting the draft anti-trafficking legislation. In particular, this legislation should clearly define and criminalize trafficking in persons offences in accordance with article 3 of the Palermo Protocol's definition and classification of trafficking crimes. It should further prescribe sufficiently stringent punishments for perpetrators as well as provide effective remedies for victims of trafficking.

(b) Extend the scope of existing labour laws to ensure adequate protection for the rights of domestic workers. Labour inspectors should be given the power and means to monitor the working conditions of domestic workers, who are often the most vulnerable to trafficking.

(c) Accelerate, in consultation with all stakeholders, the adoption of the national action plan to combat trafficking based on a human rights- and victim-centred approach, and allocate an adequate budget for its implementation.

(d) Carry out a national baseline study to collect data on trends, forms and manifestation of trafficking, its causes and consequences. This survey should be carried out in collaboration with research institution and in close cooperation with international organizations, civil society organizations and faith-based organizations.

(e) Enhanced coordination and efforts at combating trafficking would be better achieved if an office of an independent national rapporteur or an equivalent mechanism were created by law and charged with the responsibility to implement, monitor and evaluate activities aimed at combating human trafficking.

68. **With regard to institutional frameworks, Seychelles should:**

(a) Accelerate the establishment of the National Anti-Trafficking Committee by law as the lead agency to combat and prevent trafficking in persons. It should ensure that this body is endowed with the responsibility to coordinate, implement, monitor and evaluate activities and initiatives aimed at combating all types of human trafficking.

(b) Given the absence of reliable data on trafficking, there is an urgent need to design a mechanism for the collection of data on cases of trafficking, as well as on the forms, trends and manifestations of trafficking. Such data is vital to the development of informed policy responses to address trafficking in persons.

69. **With regard to identification, training and capacity-building, Seychelles should:**

(a) Put in place an adequate and well-resourced system with specific tools and protocols for identifying victims of trafficking. It is pertinent to note that accurate and swift identification of victims of trafficking is crucial to activate other actions, such as investigation and prosecution of traffickers, as well as referrals that would allow for adequate assistance and protection of victims.

(b) Provide comprehensive training programmes with support from interested partners, including donor organizations and other governments to enhance knowledge and awareness on human trafficking for all stakeholders, especially the police, the People's Defence force, immigration and border agents, prosecutors, judges and lawyers, as well as labour and health inspectors. Furthermore, it should enhance the skills of civil society organizations, including all stakeholders involved in providing assistance and care to victims of trafficking. It should also build the capacity of the media on effective reporting on trafficking in persons.

70. **With regard to the support services for victims of trafficking, Seychelles should:**

(a) Make greater efforts to protect and assist all victims of trafficking, with full respect for their human rights. It should create and support adequately resourced programmes and institutions to provide short- and long-term assistance to victims of trafficking.

(b) Put in place a free 24 hour confidential hotline/helpline for reporting suspected cases of trafficking and exploitation of migrant workers. This should also be accessible to foreign victims of trafficking and serviced by multilingual staff who have received specialized training on trafficking in persons.

(c) Establish a comprehensive and non-discriminatory compensation scheme for victims of trafficking at the national level, including a common fund for victims of trafficking in the event of the insolvency of the perpetrators.

(d) Maintain close cooperation with the United Nations system, especially UNODC and IOM, for the identification and the safe return of trafficked victims to their country, having due regard to the need, if any, for international protection of victims.

(e) Strengthen the National Human Rights Commission and provide funding that will enhance its effectiveness in accordance with the Paris Principles.

71. **With regard to prevention, Seychelles should:**

(a) Step up efforts to raise awareness about all forms of trafficking in persons, including for domestic servitude, forced labour and sexual exploitation.

(b) Launch widespread awareness-raising campaigns using media, information and communication technology, and other channels of communication that may appeal to the relevant communities in order to send a strong message and promote deeper understanding of what constitutes trafficking among the general population and the foreign community based in Seychelles. In this regard, all islands should be sensitized and efforts should not be concentrated in the capital city alone. Furthermore, efforts should be directed through the Ministry of Tourism and Culture and the tourism board to inform tourists and other stakeholders in the tourism industry about the zero tolerance policy of the Government and the international community in fighting human trafficking and sexual exploitation of children.

(c) In addition to legal and policy action to combat trafficking in persons, take concurrent measures to address the root causes of the problem, including demand for commercial sexual activities, demand for unskilled labour in the construction and fishery sectors and domestic work; as well as drug and substance dependence.

72. **With regard to prosecution, Seychelles should:**

(a) Increase its efforts to prosecute traffickers while guaranteeing fair trial rights consistent with a human rights-based approach to criminal justice, and establish the necessary legal framework and procedures in order to ensure that victims of trafficking and witnesses are protected.

(b) Once the anti-trafficking law is in place the Government should, through the Attorney General's Office and the Supreme Courts, build the capacity of prosecutors, State counsels and judges, focusing on a human rights-based approach to prosecution of trafficking cases, including provision of effective remedies for victims of trafficking. In this regard, technical assistance may be sought from relevant United Nations agencies and States.

73. **With regard to the international, regional and bilateral frameworks, Seychelles should:**

(a) Ratify without delay ILO Convention No. 189 (2011) concerning decent work for domestic workers and the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families and other relevant ILO Conventions against forced labour and exploitation.

(b) Strengthen partnerships with source countries in the region and cooperation, including through international, regional and bilateral agreements, in order to facilitate swift and coordinated responses, including through exchange of information, mutual legal assistance and safe returns.

(c) Recognize the need for a foreign workforce and develop safe migration pathways for semi-skilled and unskilled workers by entering into bilateral agreements with countries of origin and ensuring that unscrupulous recruitment agencies do not take undue advantage of migrant workers in search of a livelihood.

(d) The contribution of, and collaboration with civil society organizations, are crucial in the fight against human trafficking. In this regard, immediate steps

should be taken to establish the necessary framework to enable civil society organizations to provide assistance, including shelter and counselling services to victims.